IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O. O. C. J.

COMPANY PEITION NO.34 OF 2007

Narendra D. Bhanushali. ...Petitioner.

Versus

M/s.Sarto Electro Equipments Pvt.Ltd. ...Respondent.

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Mr. Ashish Kamat with Mr.Nikhil Rajani i/b. V. Deshpande & Co. for the Petitioner.

Mr. M. S. Udeshi with Mr. R.J. Ghag for the Respondent.

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CORAM : DR. D.Y. CHANDRACHUD, J.

June 13, 2007.

P.C.:

The claim upon which the Company Petition for winding up is founded, is on account of services allegedly provided by the Petitioner to the Respondent as a Real Estate Agent. The case is founded on a document dated 11th March 2005 alleged to have been executed by the Respondent agreeing to pay a sum of Rs.7 lakhs to the Petitioner upon the completion of all formalities for transfer of the premises in the SEEPZ Industrial Area to the Company. In the affidavit in reply, the Respondent has denied the authenticity and

genuineness of the alleged letter dated 11th March 2005. The Respondent denied having executed any such communication. The Respondent's submission is that on receipt of a statutory notice dated 4th July 2006, the Respondent has, by its letters dated 31st July 2006 and 16th August 2006 sought inspection of the original and eventually in the absence of inspection being furnished, submitted a reply dated 24th August 2006 (Exh.1 to the reply) in which the defence in regard to the letter dated 11th March 2005 was set up. According to the Respondent, all the arrangements for purchase of the property were made by the Respondent itself and not by the Petitioner.

The issues which arise in these proceedings raise disputed questions of fact which would have to be adjudicated on the basis of evidence at the trial. Significantly, in para 7 of the petition, the Petitioner is totally vague on the services rendered, save and except asserting that the Petitioner had followed up the matter to the best of his skill and ability and by using all his good offices to ensure the transfer of the said unit in favour of the Company. An order of winding up cannot be passed on such vague pleadings particularly

when the execution of the document is still in dispute. The petitioner will have to be relegated to the remedy of instituting a suit. The Company Petition is accordingly dismissed.

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